

**BATTLE CREEK CITY PLANNING COMMISSION
MEETING MINUTES
Wednesday, October 22, 2008**

1. Call to Order:

Chairman Troutman called the meeting to order at 4:00 p.m.

2. Attendance:

Members Present:

Steve Barker	Chris Simmons	Mike Troutman
Mark Behnke	Chip Spranger	
William Morris	John Stetler	

Staff Present: Glenn Perian, Senior Planner, Planning Dept.
Leona Parrish, Administrative Assistant, Planning Dept.

3. Additions or Deletions to the Agenda: Mayor Behnke welcomed Mr. John Stetler and Mr. Chip Spranger as members to the Planning Commission.

4. Approval of Minutes: Meeting Minutes of May 28, 2008.
Commissioner Barker noted a correction on page 4; paragraph 8, regarding the word (self) should be (stealth).

A MOTION WAS MADE BY COMMISSIONER MORRIS, SUPPORTED BY MAYOR BEHNKE TO APPROVE THE MINUTES OF MAY 28, 2008 WITH CORRECTION NOTED. VOTE ON MOTION: ALL YES, NONE OPPOSED MOTION CARRIED.

5. Correspondence: None

6. Public Hearing:

- A. SPECIAL USE PERMIT (#S-06-08):** Petition from Exit Realty, 698 Capital Ave., S.W. on behalf of Wolohan Michigan Development LLC, for a Special Use Permit of the following described property for use as a Church as permitted under the Planning and Zoning Code, Chapter 1290, Section 1290.01(b) (23), for property located at 182 Elm Street, Parcel #2620-40-004-0, and legally described as: RE-SURVEY OF EAST BATTLE CREEK PART OF BLOCKS 40 & 41: COMM NE COR LOT 29 OF ASSR'S PLAT OF COLEMANS SUPP TO E B C - S 00 DEG 36 MIN 37 SEC E ALG W LI OF ELM ST 202.30 FT - S 00 DEG 20 MIN 53 SEC E ALG W LI OF ELM ST 162.50 FT - DUE S ALG W LI OF ELM ST S 185 FT TO TRUE - CONTN DUE S ALG SAME 573.02 FT - N 88 DEG 31MIN 08 SEC W 637.30 FT - N 10 DEG 25 MIN 34 SEC W 483.03 FT - N 83 DEG 34 MIN 55 SEC E 729.07 FT TO POB, EXC BUILDINGS LOCATED ON THE SITE, CONT 8.22 AC (SLY & WLY PORTION OF PARCEL ASSESSED AS #2620-40-005-0 IN 1983 THRU 2004).

Ms. Marcia Mageria, Exit Realty, 698 Capital Avenue S.W., Battle Creek, MI; was present to answer any questions for the redevelopment of Wolohan Lumber that the Planning Commission might have regarding this Special Use Permit for 182 Elm Street. Stated she is working with several potential tenants for the property owners, one being a church and caterer. The church use is why they need the approval of the Planning Commission.

Commissioner Troutman asked if there was anyone else present to speak in favor, seeing none asked if there was anyone present to speak against this petition.

With no one else wishing to speak the Public Hearing was closed.

7. Old Business: None

8. New Business:

- A. **SPECIAL USE PERMIT (#S-06-08):** Petition from Exit Realty, 698 Capital Ave., S.W. on behalf of Wolohan Michigan Development LLC, for a Special Use Permit of the following described property for use as a Church as permitted under the Planning and Zoning Code, Chapter 1290, Section 1290.01(b) (23), for property located at 182 Elm Street, Parcel #2620-40-004-0.

Mayor Behnke noted regarding the motion to be made; that it should include the staff recommendations from the staff report stating that all permits be obtained from the building Inspections department, Engineering DPW and that permits be obtained for any proposed signage.

MOTION WAS MADE BY COMMISSIONER BARKER, SUPPORTED BY MAYOR BEHNKE TO APPROVE THE PETITION FROM EXIT REALITY FOR A CHURCH ON 182 ELM STREET WITH THE STAFF RECOMMENDATIONS.

Discussion:

Commissioner Barker asked Ms. Mageria if the Special Use Permit pertained to the entire 33,000 sq. ft. building or merely the 14,000 square feet of front retail portion. He stated he understood it to be the 14,000 square feet. Ms. Mageria stated initially it would be the 14,000 sq. ft.

Commissioner Barker asked regarding the Special Use Permit, does that create any issues concerning only a portion of the building having a Special Use Permit.

Mr. Glenn Perian stated that if the Special Use Permit is issued for only that portion of that building, than only that portion can be used for church purposes. Ms. Mageria stated since they were here she would like the Special Use Permit for the whole property, which is what the application was and do not want to be limited to just the front retail portion.

Mr. Perian stated it was the understanding that this application was for the 14,000 sq. ft., he asked Ms. Mageria for clarification as to entire property being all of the main building or the entire parcel including the additional buildings on site. Ms. Mageria stated they do not have a current use for the outbuildings at this time, that if the church would like to use them they would like that option and would like the approval for the entire parcel.

Commissioner Troutman asked if the Special Use Permit for church was to include the additional two buildings one 7,900 sq. ft. and 6,470 sq. ft. that are enclosed. Ms. Mageria stated yes.

Commissioner Troutman asked Ms. Mageria what type of use would the church have for the other smaller buildings. Ms. Mageria stated storage or sports facility.

Commissioner Troutman asked Mr. Perian if those types of uses require a Special Use Permit. Mr. Perian stated if it is apart of the church operation, yes it would require a SUP.

Commissioner Troutman asked if the church lease or purchase this property. Ms. Mageria stated they intend to lease.

Commissioner Simmons stated in reviewing the report, initially the church was to use the front portion of the main building and if the Special Use Permit was approved for the entire property it would then be approved at a later date when the church is ready to expand and would offer more flexibility in leasing this property. Ms. Mageria stated yes, that is correct.

Commissioner Troutman asked what if a catering business wanted to do business at this location, would it be permitted. Mr. Perian stated that a Catering business falls within the use allowed for this zoning and would not need a Special Use Permit.

Commissioner Barker asked if the application for the Special Use Permit was for 33,000 sq. ft. building or for the entire lot. Ms. Mageria stated the petition was for the entire parcel located at 182 Elm St. which is 8.9 acres.

Commissioner Troutman stated the motion was for approval of the Special Use Permit for the one building and not for the entire lot. Ms. Mageria stated only the church would need the Special Use Permit.

Commissioner Barker stated he was not clear regarding the Religious Land Use Act; If Special Use Permit was granted would there be a potential for others not to be allowed to have certain types of businesses within that area. This could prevent other businesses to be allowed because of proximity to the church and could possibly put restrictions on them at a later date.

Mr. Stetler stated if they only approved the Special Use Permit for the 33,740 sq. ft. building; what would be the process if they wanted it for the entire parcel later on. Mr. Perian stated it would require another Special Use Permit application and \$600 dollars to be submitted for approval of the Planning Commission and City Commission, which would take 60-90 days.

Mayor Behnke stated that if they had approved it for the entire parcel and was not used as such; it would be come null and void after a period of one year. Mr. Perian stated that was correct unless they make a request for an extension.

Commissioner Morris asked if there were any liquor licenses within 500 feet of this parcel. Mr. Perian stated he did not believe there were any within 500 feet and that twelve meeting notices were mailed to everyone within 300 feet and that and did not feel it was a true reflection of the distance you were looking.

Commissioner Troutman stated we need clarification for the motion made on if it is for the 33,740 sq. ft. building only or for the entire parcel. Mr. Perian stated the approval made today can be for whatever the commission decides to approve as the notification was for the parcel.

Commissioner Troutman asked the petitioner if they are requesting the Special Use Permit to be approved for the entire parcel. Ms. Mageria stated yes, she is requesting it for the entire parcel.

MOTION WITHDRAWN: COMMISSIONER BARKER WITHDREW HIS MOTION TO APPROVE THE SPECIAL USE PERMIT FROM EXIT REALITY FOR A CHURCH ON 182 ELM STREET TO INCLUDE STAFF RECOMMENDATIONS.

Mayor Behnke stated he would withdraw his second and at the same time resubmit the motion except to include the entire parcel; thinks it would be important that they be proactive and work with the developer and see no reason not to approve this especially in the area that surrounds this parcel. Said there is considerable work that needs to be done and commend the church for wanting to reach out into this area and hope their membership flourish because of it.

MOTION WAS MADE BY MAYOR BEHNKE, SUPPORTED BY COMMISSIONER SIMMONS TO APPROVE THE SPECIAL USE PERMIT FROM EXIT REALTY FOR THE ENTIRE PARCEL TO INCLUDE THE STAFF RECOMMENDATIONS, FOR A CHURCH AT 182 ELM STREET.

A ROLL CALL VOTE WAS TAKEN: ALL IN FAVOR; NONE OPPOSED. MOTION APPROVED.

9. Comments by the Public: None

10. Comments by the Staff and Commission Members:

Commissioner Barker stated this past June several Commissioners attended the Michigan Planning Seminar that was offered in Marshall, MI, which provided excellent information regarding the combining of the three Michigan State Statutes and the Michigan Enabling Act he found to be very instructive and helpful. He wanted to thank the City for allowing them to attend and hope some of the other Planning Commissioners can attend in the future.

Mr. Glenn Perian stated that in regards to the seminar he had updated the By-Laws from the Planning Commission and Zoning Board of Appeals to get them into compliance with the new legislation. Stated it will go to the City Attorney for review in addition he had done some work updating the Planning and Zoning Code to get it into compliance with the new legislation and should be going to the City Attorney for adoption.

Mr. Perian noted that with the vacancy of the Planning Department Director, the routine Planning Commission, Zoning Board and Historic District applications/petitions and day-to-day work is being done with the current two person staff; some of the other projects that were on the survey of ranking needing to be done will have to be held off until additional staff is hired. Said it is his understanding that the Planning Department will be reorganized, possibly without a director of Planning and Community Development, they may be separated and under another supervisor/director and hope that staff will be hired soon.

Commissioner Barker stated that with the new Enabling Act combining the three prior Enabling Zoning Acts created a lot of work for the city in terms of complying with the statutes; with the laws in 2011 changing when the Planning Commission will assume the responsibility for Zoning Board of Appeals, with a host of activities associated. He wanted to congratulate the Planning Staff on work being done.

11. Adjournment:

The meeting adjourned at 4:28 P.M.

Respectfully Submitted,
Leona Parrish, Administrative Assistant
Battle Creek City Planning Commission